

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

FREEDOM FROM RELIGION  
FOUNDATION, INC., DAN BARKER, and  
ANNIE LAURIE GAYLOR, Co-Presidents of  
FFRF,

*Plaintiffs,*

v.

DONALD TRUMP, President of the United  
States; and JOHN KOSKINEN,  
Commissioner of the Internal Revenue  
Service,

*Defendants,*

CHARLES MOODIE, KOUA VANG,  
PATRICK W. MALONE, and HOLY CROSS  
ANGLICAN CHURCH,

*Proposed Defendant-Intervenors.*

Case No. 3:17-CV-00330

**PROPOSED DEFENDANT-INTERVENORS' MOTION TO DISMISS**

Pursuant Federal Rule of Civil Procedure 12(b)(6) and for the reasons stated in the supporting brief, proposed Defendant-Intervenors Charles Moodie, Koua Vang, Patrick Malone, and Holy Cross Anglican Church ("the Churches") hereby move the Court to dismiss Plaintiff Freedom From Religion Foundation's complaint with prejudice.

While this Court has not yet had the opportunity to rule on the Churches' motion to intervene, the Churches file this motion to avoid prejudice to their interests and to offer the court the opportunity to consider their argument. *See Ctr. for Biological Diversity v. EPA*, 2013 WL 1729573 (N.D. Cal. Apr. 22, 2013) (intervenors filed motions to intervene and to dismiss on same

day; court considered both motions in same opinion, first granting motion to intervene and then granting motion to dismiss); *Kalos v. Wisenbaker Holdings, LLC*, 2011 WL 761474 (E.D. Va. Feb. 23, 2011) (same); *National Casualty Co. v. Davis*, 1991 WL 101648 (N.D. Ill. Jun. 3, 1991) (intervenors filed motion to intervene on March 29, then filed motion to dismiss and motion for summary judgment on April 9; court granted motion to intervene on June 3 and set briefing schedule for motions).

Moreover, since the Churches' argument presents a fundamental threshold issue for the Court's consideration, and one that the Defendants have not raised, this is the best time to consider it.

Dated: Aug. 22, 2017

Respectfully submitted,

/s/ Daniel H. Blomberg  
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